

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-9 are pending in the present application, Claims 1-6 having been presently amended.

In the outstanding Office Action, Claims 1-6 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Nakano et al (U.S. Pat. No. 6,011,787) in view of Higuchi et al (U.S. Pat. No. 6,167,037). Claims 7-9 were objected to as being dependent upon rejection base claim, but were indicated as being allowable if rewritten to be in independent form including all of the limitations of the base claim and any intervening claims.

Applicants acknowledge with appreciation the indication of allowable subject matter in Claims 7-9.

Applicants previously filed arguments were not found persuasive. The outstanding Office Action states on pages 2 and 3 that:

Although one code is assigned to a mobile station, another code is assigned to a sector through a base station which is associated with a communication network. Nakano teaches at least in the abstract “code assigned to the base station is transmitted from each one of at least two sectors of the base station” and Nakano teaches in col. 1 line 10: “base stations connected to a communication network”. This code assigned to the base station is the code that the network administrator of the base station assigned to it. For example, a cellular company’s network has base stations and any base station code is controlled by the network and hence is associated with the network. Hence, Nakano teaches code (Nakano abstract: code) associated with each network type (Nakano Fig. 1: each base station is part of a cellular network and hence is part of a network type; abstract: “code assigned to the base station”; There is a code assigned to the base station and hence this code is associated with the network type.) to which said base station belongs (Nakano Fig. 1: each base station is part of a cellular network and hence is part of a network type).

However, this disclosure by Nakano et al and the asserted cellular company’s network configuration does not mean that Nakano et al explicitly or implicitly disclose a *common*

code associated with each base station group (defined in the claims to include more than one base station) as a second spreading code *functioning as an identifier* of the base station group.

Indeed, Nakano et al disclose at col. 5, lines 62-64, (in reference to Figure 1 of Nakano et al) that each base station 1 or 2 transmits a perch channel using a spread code *assigned in advance*. Nakano et al is silent as to whether or not common or different spread codes are assigned. Nakano et al further disclose at col. 8, lines 34-39, that:

The mobile station receives the perch channels from the base stations by sequentially using the perch channel spread codes of surrounding cells which are stored in a memory, and *specifies the base station from the perch channel spread code*, but the mobile station does not notice which sector of the base station it is currently located at. [emphasis added]

If a common spread code was used in Nakano et al between all the base stations in a group, then the mobile stations in would not have to rely on an association in memory of the spread codes with the base stations in order to specify the “base station from the perch channel spread code.”

Accordingly, Applicants respectfully submit that Nakano et al do not teach or suggest assigning a common code (associated with each base station group including more than one base station or a common code associated with each network type to which the base station group belongs) as second spreading code functioning as an identifier of the base station group or the network type, as defined in the present independent claims.

Furthermore, the deficiencies in Nakano et al are not overcome by Higuchi et al.

The outstanding Office Action acknowledges that Higuchi et al disclose that the second spreading code *is different between the base stations*. See Office Action, page 3, lines 10-11. However, thereafter the Office Action asserts that Higuchi et al’s teaching, in

col. 4, lines 6-7, that the first spreading code group is common to respective base stations means that the code effectively functions as an identifier of the group of base stations.

Yet, the first spreading code in Higuchi et al doubly spreads the transmitted signal (see Higuchi et al, col. 4, lines 12-14) and would be analogous to the claimed first spreading code which also doubly spreads the signal being transmitted. For Higuchi et al to meet the claim limitations, Higuchi et al would have to disclose or suggest that the second spreading code functions as an identifier of the base station group or the network type, which Higuchi et al do not disclose or suggest. Further, modifying Higuchi et al to have the second spreading code and not the first spreading code function as an identifier of the base station group or the network type would only occur through impermissible hindsight reconstruction made possible only in light of the teachings in Applicants' specification.

For all these reasons, it is respectfully submitted that (1) a case of *prima facie* obviousness has not been made and (2) the present claims patentably define over the art of record.

Finally, this amendment is submitted in accordance with 37 C.F.R. §1.116 which after final rejection permits entering of amendments canceling claims, complying with any requirement of form expressly set forth in a previous Office Action, presenting rejected claims in better form for consideration on appeal, or presenting amendments touching on the merits upon a showing of good and sufficient reasons why the amendment is necessary and was not presented earlier. The present amendment provides clarification to the assigned code associated with each base station group. This clarification was made in response to the examiner's comments in which attributes of a cellular company's network (not substantiated by an art reference) were for the first time asserted. No new matter has been added, and this amendment does not raise new issues requiring further consideration and/or search. It is

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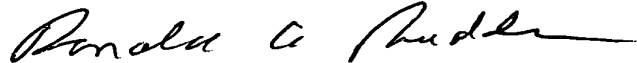
therefore respectfully requested that the present amendment be entered under 37 C.F.R.

§1.116.

Consequently, in light of the above discussion and in view of the present amendment, the present application is believed to be in condition for allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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